IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1693 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SANJAY HIRALAL SHAH - Applicant(s)
Versus
STATE OF GUJARAT - Respondent(s)

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Appearance :
MR ASHISH M DAGLI for Applicant(s) : 1,
MR MENGDEY, ADDL. PUBLIC PROSECUTOR for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 05/09/2007

ORAL JUDGMENT

By way of this petition under Articles 226 and 227 of the Constitution of India, the petitioner, - original complainant has prayed for an appropriate order directing the learned trial

Court for expeditiously deciding criminal case No.749/02 and to suitably make direction in respect to the non-compliance of the order passed by this Court.

2. The petitioner is the original complainant of criminal case No.749/02 pending in the Court of ld. JMFC, 1st Court, Vadodara. The said complaint is filed against the accused persons for the offence punishable u/s 406, 420 r/w 120-B of the IPC. It is the case of the petitioner that initially “B” summary report was submitted by the Investigating Officer. However, the same was not accepted and the ld. Magistrate was pleased to issue summons for the offence u/s 420 r/w 114 of the IPC. That the quashing petition being Criminal Misc. Application No.1713 of 2002 was filed before this Court u/s 482 of Criminal Procedure Code to quash the said complaint. However, the same was withdrawn. It is the case of the petitioner that thereafter, the complaint was placed for evidence and lastly on 31-7-03 by Exh-30, the evidence of the petitioner, - complainant was recorded and thereafter, the matter has been adjourned on number of occasions for cross-examination of the petitioner, - complainant, however, for one reason or the other, the accused persons are adopting delay tactics and the complaint is not proceeded further. It is the case of the petitioner that the petitioner had earlier filed Special Criminal Application No.336/05 whereby the learned Single Judge of this Court (Coram: C.K. Buch, J.) by order dated 28-3-05 has directed the learned trial

Court to dispose of the criminal case at the earliest, preferably within a period of six months and in spite of the aforesaid order, the criminal complaint is not proceeded further for number of reasons mainly at the instance of the accused persons. Shri Dagli, learned advocate appearing on behalf of the petitioner has submitted that on 23-8-07, an application has been given on behalf of the original accused No.2 to transfer the case in the Court of ld. Chief Judicial Magistrate, as the case is for the offence u/s 420 of the IPC. He has submitted that even the petitioner has no objection if the present complaint is transferred to the ld. Chief Judicial Magistrate. However, it is requested to issue appropriate direction directing the learned trial Court to decide and dispose of and conclude the trial as early as possible.

3. It appears from the record that the evidence of the petitioner has been recorded on 31-7-03 and at present the criminal complaint/case is at the stage of cross-examination of the complainant by the accused persons. It appears from the Rojkam that the matter has been sufficiently delayed and adjourned. Even, the learned Single Judge of this Court has vide order dated 28-3-05 has directed the learned trial Court to dispose of the trial at the earliest, preferably within a period of six months from the date of receipt of this order. However, still for one reason or the other, the trial is not proceeded further. It appears from the record that the accused No.2 has given

application on 28-3-07 to transfer the aforesaid criminal case No.749/02 to the Court of ld. Chief Judicial Magistrate and for which the petitioner has no objection. Under the circumstance, while disposing of the present petition, it is directed to the ld. JMFC, 1st Court, Vadodara/ld. Chief Judicial Magistrate to comply with the order passed by the learned Single Judge dated 28-3-05 passed in Special Criminal Application No.336/05 and the learned trial Court is directed to see that the aforesaid criminal case No.749/02 is disposed of as early as possible but not later than six months from the date of receipt of this order. The learned trial Court may also consider that even the petitioner has no objection, if the criminal case No.749/02 is transferred to the Court of ld. Chief Judicial Magistrate. The ld.JMFC/Chief Judicial Magistrate is directed to comply with the aforesaid directions strictly and shall not grant unnecessary adjournments to any of the parties and all concerned are directed to cooperate the learned trial Court in early disposal of the aforesaid case.

4. With this, the present petition is disposed of. Direct service is permitted.

(M.R. Shah, J.)

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